IN THE HIGH COURT OF UTTARNCHAL AT NAINITAL.

Writ Petition no. 283(SS) 2005.

1. Mahanand S/o late Heera Mani,
   Resident of village- Sirsaulia, P.O. Pandrola,
   District- Rudra Prayag.
2. Kripal Singh S/o late Badri Singh
   Resident of village- Kanda, P.O. Kanda,
   District Rudra Prayag. .....Petitioners.

Versus

1. State of Uttaranchal, through Secretary,
   Public Works Department, Dehradun,
2. Chief Engineer, Public Works Department, Dehradun,
3. Executive Engineer, Construction, Division,
   P.W.D. Rudra Prayag, District Rudra Prayag,
4. State of U.P. through Engineer-in-chief,
   Public Works Department, U.P., Lucknow. .....Respondents.

Sri Nandan Arya, learned counsel for the petitioners,
Sri Subhash Upadhyay, learned Standing Counsel for the State of Uttaranchal.

Hon'ble M.M. Ghildiyal, J.

Heard Sri R.C. Tamta, holding brief of Sri Nandan Arya, learned counsel for the petitioners and Sri Subhash Upadhyay, learned Standing counsel for the State of Uttaranchal/ respondent nos. 1 to 3.

By means of this writ petition, the petitioner have prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus commanding/directing the respondents to release the pension of the petitioners,

ii. Issue a writ, order or direction in the nature of mandamus commanding/directing the respondents to

give arrear with 12% interest from the date of their retirement,

iii. Issue any suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstance of the case be passed in favour of the petitioners,

iv. Award the writ petition with cost.

The petitioners have submitted that they were appointed with the respondent's Department in the Work-charge establishment in the year 1985 and regular appointment was given to them in the regular establishment w.e.f. 13.11.1995 and 21.11.1995 respectively. The petitioner no. 1 retired from his services on 29.02.2000 and the petitioner no. 2 retired from his services on 30.06.2000 after completing age of superannuation. Thus, from the averments made in the petition itself it is evident that none of the petitioner has completed 10 years' services after being appointed in regular establishment, which is mandatory requirement for an employee for getting pension provided under the pension Rules. In these circumstances, I am of the view that the petitioners are not entitled to get any relief by means of this writ petition under Article 226 of the Constitution of India.

For the reasons recoded above, the writ petition lacks merit and is liable to be dismissed in limine. Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

December 6, 2006:
NCM: